

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.9140 OF 2015

Asmita Shivling Kedar

.... Petitioner

Vs.

State of Maharashtra & Others

.... Respondents

Mr. Jagdish G. Aradwad (Reddy) for the Petitioner.

Mr. B.V. Samant, AGP, for Respondent Nos.1 & 2.

CORAM: S.C. DHARMADHIKARI &
R.I. CHAGLA, JJ.

DATE : NOVEMBER 18, 2019

P.C:

1. On 4-11-2019, we passed the following Order on the petition:-

"1. The impugned order in this case is passed by the Caste Certificate Scrutiny Committee, Solapur, on 12-8-2015.

2. That rejects the claim of the petitioner as belonging to "Wani" Other Backward Class. Mr. Jagdish G. Aradwad (Reddy), however, relies on the copy of the Certificate of Validity issued by this very Committee on 19-8-2016 to Kedar Kartik Shivling and says that the said Kartik is the real brother of the present petitioner.

3. We would like Mr. Samant, learned AGP, to clarify to us, whether the members of the Scrutiny Committee were apprised of the rejection of the claim of the present petitioner and whether that Scrutiny Committee/respondent No.2 before us has indeed issued this Certificate of Validity to the petitioner's real brother later on. Depending upon the instructions that may be received by Mr. Samant, we would pass further order in this writ petition.

4. *A copy of the Caste Validity Certificate is taken on record and marked "X" for identification.*

5. *To enable Mr. Samant to take instructions, we post this matter on **18-11-2019**."*

Pursuant to that Order, the matter is listed today. On taking instructions, Mr. Samant says that the Scrutiny Committee is ready and willing to issue a Caste Validity Certificate in favour of the petitioner and that will be done within two (2) weeks from today. We accept this statement made by Mr. Samant on instructions as an undertaking to this Court. The Order of the Scrutiny Committee impugned in this petition and dated 12-8-2015 is quashed and set aside. The writ petition is allowed accordingly. The Caste Validity Certificate be issued as undertaken before us, failing which we will not hesitate to initiate contempt proceedings.

2. While we dispose of this writ petition, we have noticed that the date of the impugned Order is stated as 12-8-2015 whereas in the Order itself the date mentioned is 29-5-2015. If that is how the Order was ready, duly signed, then how the other date 12-8-2015 appears, is inexplicable.

3. It means that this Order was kept ready in May 2015 and when the petitioner was to be apprised of the same, it was given the latter date. That means it was not pronounced in the presence of the parties.

4. One of the reasons why such discrepancies are appearing is due to lack of transparency and openness. The transparency and openness can be ensured by directing the respective Commissioners through the Secretaries of the State to forthwith generate a computer programme. There will be a computer programme of the whole month. On every working day how many cases are listed, when are the Orders pronounced and whether there is a practice or convention prevailing of concluding the hearing, preparing Orders later on but pronouncing them on a given date and time. If the Orders are not pronounced in this manner and in the presence of the parties, there is scope for manipulation. In this matter we have not found any explanation for insertion of the date 12-8-2015 as the date of the impugned Order. On occasions, this may be done to oblige even the petitioners/applicants so as to enable them to overcome the delay in filing petitions. In para 25, the petitioner says the Order is dated 29-5-2015 but forwarded by letter dated 12-8-2015. If this is the reason, then there is no explanation called for from anybody concerned as to why an Order was kept in the file for three months.

5. On occasions, it will be very convenient for those Members who have joined duty after the date of hearing. They would not conduct a rehearing but simply take out that dictated Order and pronounce it by signing on the same. The principle,

that one who hears must decide, is given a complete go-by if not a burial. We direct that in the case of this Scrutiny Committee at Solapur, an inquiry be conducted by the superiors and this Court should be apprised of the outcome of the same. For compliance, we post this matter on **3-2-2020** before which date we expect the inquiry to be concluded and corrective steps taken.

(R.I. CHAGLA, J.)

(S.C. DHARMADHIKARI, J.)